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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,628	06/28/2001	Susumu Nakagawa	450100-03297	6151

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FROMMER LAWRENCE & HAUG  
745 FIFTH AVENUE- 10TH FL.  
NEW YORK, NY 10151

EXAMINER

GREENE, DANIEL L

ART UNIT PAPER NUMBER

3621

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/894,628

Applicant(s)

NAKAGAWA, SUSUMU

Examiner

Daniel L. Greene

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabin et al. U.S. Patent 6,697,948 B1 [Rabin], and further in view of Saito U.S. Patent 6,182,218 B1 [Saito].

As per claims 1, 7, 8 and 9:

The recitation that " A contents control method..." " A contents control device..." " A program storage medium for..." and " A contents control apparatus..." has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a method, a system, an apparatus, etc. and the portion of the claim following the preamble is a self-contained description of the method or the system, etc., not depending for completeness upon the introductory clause.

*Kropa v. Robie*, 88 USPQ 478 (CCPA 1951)

As per claims 1, 7, 8 and 9, Rabin discloses a method/apparatus that manages content (software) based on key code information (tags) containing content usage information (authorized vendor or owner rights to the software) set within a range that the contents can be utilized comprising:

comparing said content usage rights information with status code information showing the usage status of said contents; Col. 11, lines 10-45; The supervisory program determines the if the attempt to use the instance of software is allowable.

determining whether the contents are used within the range set by said content usage rights information; Col. 11, lines 10-45; The supervisory program determines the if the attempt to use the instance of software is allowable.

comparing said status code information with output setting information having a threshold value within the range of said contents usage rights information to warn by warning report data when in proximity to said contents usage rights in the case where said status code information is within the range of said contents usage rights information; Col. 11, lines 10-45; The supervisory program determines the if the attempt to use the instance of software is allowable.

Rabin discloses the claimed invention except for sending said warning report data to a report address using an electronic mail when said status code information nears the threshold value of said output setting information. However, Rabin does disclose sending a continuation message indicating an action to be followed. Col. 11, lines 50-55.

Saito teaches that it is known in the art to provide sending said warning report data to a report address using an electronic mail when said status code information nears the threshold value of said output setting information. Col. 10, lines 49-54. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the continuation message indicating an action to be followed of

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Rabin with the sending said warning report data to a report address using an electronic mail when said status code information nears the threshold value of said output setting information of Saito, in order to provide the user with information to be used for future actions.

disabling use of the contents when said status code information exceeds the threshold value of said output setting information; Col. 41, lines 8-12, Rabin teaches that the rejection of the user device simply means actions that can include discarding or removing or not allowing use of the instance of software. and

deleting the contents after a period of elapsed time for deletion has elapsed. Col. 41, lines 8-12. Rabin teaches that the rejection of the user device simply means actions that can include discarding or removing or not allowing use of the instance of software.

As per claim 2:

Rabin does not expressly show outputting invalidation report data when the use of said contents has been disabled. However, Rabin does disclose the use of the call-up and continuation message to convey the system's status to the user. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to outputting invalidation report data when the use of said contents has been disabled since it is known in the art that outputting invalidation report data when the use of said contents has been disabled is old and well known.

Further, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The outputting data when the use

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of said contents has been disabled steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to outputting invalidation report data when the use of said contents has been disabled because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per claim 3:

Rabin does not expressly show outputting deletion report data when said contents have been are deleted. However, Rabin does disclose the use of the call-up and continuation message to convey the system's status to the user. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to outputting deletion report data when said contents have been are deleted since it is known in the art that outputting report data when the use of said contents has been deleted is old and well known.

Further, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The outputting data when the use of said contents has been deleted steps would be performed the same regardless of the

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data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to outputting deletion report data when said contents have been are deleted because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Further, Rabin discloses the deletion of the instance of software and subsequent continuation message. Col. 41, lines 8-12.

As per claim 4:

Rabin further discloses:

wherein loading period information set with the loading timing for loading said contents usage right information, said status code information and said output setting information are set in said setting information, and said status code information, said contents usage information and said setting information are compared based on said loading interval information. Col. 7, lines 35-48.

As per claim 6:

Rabin does not expressly show sending said\_invalidation report data and said deletion report data to said resort address using an electronic mail. However, Rabin does disclose the use of the call-up and continuation message to convey the system's status to the user. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to sending said\_invalidation report data and said deletion report data to said resort address using an electronic mail is old and well known.

Further, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The sending said\_invalidation report data and said deletion report data to said resort address using an electronic mail steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to sending said\_invalidation report data and said deletion report data to said resort address using an electronic mail. because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

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Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

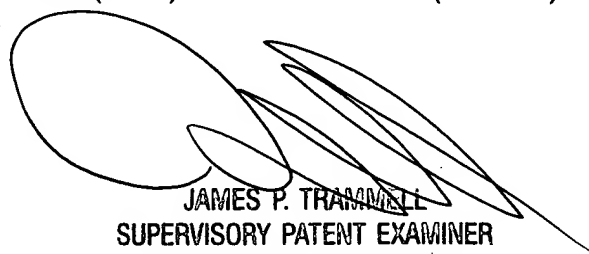
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 571-272-6707. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Daniel L. Greene  
Examiner  
Art Unit 3621

6/6/2005